



General Assembly

Substitute Bill No. 1409

January Session, 2001

AN ACT CONCERNING THE ALTERNATIVE RULE AGAINST PERPETUITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) Sections 1 to 5, inclusive, of this act may be cited
2 as the Alternative Rule Against Perpetuities.

3 Sec. 2. (NEW) (a) The provisions of sections 1 to 5, inclusive, of this
4 act shall not apply unless a testator, settlor, transferor or other creator
5 of a testamentary, revocable or irrevocable inter vivos agreement or
6 other instrument creating or amending a trust or granting a power of
7 appointment makes a qualifying election as provided in subsection (b)
8 of this section.

9 (b) A qualifying election is made if: (1) The instrument evidences a
10 specific intent to have the Alternative Rule Against Perpetuities apply;
11 (2) the instrument provides, at the time of its execution, that the law of
12 this state shall govern the interpretation of the instrument, and the
13 administration of the trust, if a trust is created or amended; (3) the
14 instrument is created by one or more persons, at least one of whom is
15 domiciled in this state at the time the instrument is executed, or if a
16 trust is created or amended, one or more of the individual or corporate
17 trustees of the trust is domiciled in this state at the time the trust is
18 executed; (4) the instrument does not provide for the suspension of
19 power of alienation, as provided in subsection (c) of this section, with

20 respect to property subject to the trust or power of appointment; and
21 (5) the instrument is executed on or after October 1, 2001.

22 (c) For the purposes of subdivision (4) of subsection (b) of this
23 section: (1) Subject to the provisions of subdivision (2) of this
24 subsection, the power of alienation is suspended if there is no person
25 alive who, alone or in combination with others, may, as to property
26 that is subject to the power granted or the trust created or amended by
27 the instrument, convey (A) title to real property in fee, or (B) complete
28 ownership of personal property; and (2) the power of alienation is not
29 suspended by an instrument creating or amending a trust if (A) the
30 trustee is not prohibited from selling property subject to the trust for a
31 period greater than ten years from the date the trust became
32 irrevocable, (B) at all times during the duration of the trust the trustee
33 of the trust has the power, either expressed or implied, and either
34 alone or in combination with others, to sell property subject to the
35 trust, or (C) at all times during the duration of the trust, at least one
36 person has an unlimited power to terminate the trust pursuant to the
37 terms of the instrument.

38 (d) Interests for which a qualifying election, as provided in
39 subsection (b) of this section, is made to subject such interests to the
40 Alternative Rule Against Perpetuities pursuant to an instrument as
41 provided by subsection (a) of this section, shall not be subject to the
42 Uniform Statutory Rule Against Perpetuities as provided in sections
43 45a-490 to 45a-496, inclusive, of the general statutes.

44 Sec. 3. (NEW) (a) A nonvested property interest is invalid unless the
45 interest either vests or terminates within two thousand years after its
46 creation.

47 (b) A general power of appointment not presently exercisable
48 because of a condition precedent is invalid unless the condition
49 precedent is either satisfied or becomes impossible to satisfy within
50 two thousand years after its creation.

51 (c) A specific power of appointment or general testamentary power

52 of appointment is invalid unless the power is irrevocably exercised or
53 otherwise terminates within two thousand years after its creation.

54 Sec. 4. (NEW) (a) Except as provided in subsections (b) and (c) of
55 this section, the time of creation of a nonvested property interest or a
56 power of appointment is determined under general principles of
57 property law.

58 (b) For the purposes of sections 1 to 5, inclusive, of this act, if there is
59 a person who alone can exercise a power created by a governing
60 instrument to become the unqualified beneficial owner of (1) a
61 nonvested property interest, or (2) a property interest subject to a
62 power of appointment described in subsection (b) or (c) of section 3 of
63 this act, the nonvested property interest or power of appointment is
64 created when the power to become the unqualified beneficial owner
65 terminates.

66 (c) For the purposes of sections 1 to 5, inclusive, of this act, a
67 nonvested property interest or a power of appointment arising from a
68 transfer of property to a previously funded trust or other existing
69 property arrangement is created when the nonvested property interest
70 or power of appointment in the original contribution was created.

71 Sec. 5. (NEW) In the case of a disposition for which a qualifying
72 election to be subject to the Alternative Rule Against Perpetuities has
73 been made pursuant to section 2 of this act, upon petition of an
74 interested person, a court shall reform such disposition in the manner
75 that most closely approximates the transferor's manifested plan of
76 distribution and is within the two thousand years allowed by section
77 3 of this act if: (1) A nonvested property interest or a power of
78 appointment becomes invalid under section 3 of this act; (2) a class gift
79 is not but may become invalid under section 3 of this act and the time
80 has arrived when the share of any class member is to take effect in
81 possession or enjoyment; or (3) a nonvested property interest may vest
82 but not within two thousand years after its creation.

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